

In the Matter of:  
Broadcast Localism

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) Reply Comments on  
) FCC Docket No. 04-233  
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) Comments on  
) FCC Docket No. RM-10803  
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## **Localism in Broadcasting and Cable for Binghamton, NY**

Prepared by William Huston for

**NY/PA Media Action**

and the

**Binghamton Independent Media Center**

December 30, 2004

### **I. Introduction**

This memorandum will address the state of localism in the Binghamton, NY market for broadcast and cable. This is simultaneously submitted as reply comments under FCC Docket No. 04-233, and as comments under FCC Docket No. RM-10803.

For the purpose of this document, "localism" will address three areas: a) ownership, b) news programming, and c) other locally produced public-affairs programming. A fourth area was to be examined, local arts and entertainment programming, however other than locally produced music shows (DJ plays recorded music), and an occasional band on WHRW, there is no locally produced arts or entertainment programming.

Only substantial news and public affairs programs (15 min. duration or more) are included in this report. Very short Public Service Announcements (PSAs) and Community Calendars, etc. are not included.

**NY/PA Media Action** is an unincorporated association of people from central New York and northeastern Pennsylvania dedicated to the following principles of media reform: democracy; diversity; discernment of truth requires many voices; local production/local origination; media literacy education; representation of minority viewpoints; decentralized, non-corporate, and local ownership; accountability; openness; and non-commercialism, especially during news, public affairs, election coverage, and children's' programming. NY/PA Media Action was first formed in November 2004 to address concerns about the lack of coverage and disinformation in the mainstream media regarding serious irregularities in the 2004 presidential election.

The **Binghamton Independent Media Center** (a/k/a IMC-Binghamton) is a media collective devoted to media literacy education, and locally produced grassroots community media. It is affiliated with the Global Indymedia Network of IMCs in over 200 cities worldwide. The first IMC was created in Seattle, WA, in response to the failure of the commercial media (and even so-called "Public Broadcasting") to provide context with in-depth reporting of the urgent issues and social movements of the day.

## II. **Summary of Findings**

Broadcast localism in the Binghamton market is in a very poor state indeed. Highlights:

- A. **Ownership:** Of twenty-five primary local analog broadcast licenses and one broadband cable provider, eighteen are owned by just five distant for-profit corporations. The remaining seven account for less than 9% of the overall market share.

The economy of the Binghamton area is in very bad shape. Many factories have closed, there is high unemployment, and we have one of the highest rates of poverty in the nation. The existence of *any* for-profit businesses (including media operations) with distant ownership and stockholders means that profits will leave this already economically depressed area.

- B. **Local news programming** is at best only about 30% news, and the rest a mix of commercials, weather, entertainment, and distantly produced video news releases, often disguised as being locally produced. Often, stories are repeated throughout the day, so effectively, only about 5-15% of broadcast time claimed to be devoted to news is original local news content.
- C. Of the broadcasters which produce local news, most features are very short, usually 60 seconds or less, and of a highly sensational nature (shootings, burglaries, fires, car crashes). There is very little in-depth

reporting necessary to inform the public about important matters of the day.

- D. In comments made to the FCC on local television licensee (WBNG) claims that it produces "more than 24 1/2 hours of local newscasts each week", which averages to be 3.5 hours per day. However, after subtracting time spent on commercials, weather, sports, entertainment, video news releases, and redundancy, the actual total amount of original local news produced per day is usually 25 min. or less per day. This is typical for all broadcasters which has a news program.
- E. Non-news locally produced **public affairs broadcasting** is almost entirely absent. Commercial radio broadcasters average just under seven-tenths of one percent (0.64%), WSKG, Inc. our local "Public Broadcasting" affiliate is just over seven-tenths of one percent (0.74%) for their two radio streams. Only WHRW, the radio station owned by the State University of New York does significantly better (by an order of magnitude) at 7.4%.

Just four programs account for about 27 hours/week across 21 broadcast streams. ("Talk with Tony" on WNBC-AM, 2.5 hours M-F; "Off the Page", WSKG-FM, 2 hours per month; "Encounter", WBNG-TV, 30 min per week; "Community Focus", 30 min. per week, runs on all Clear Channel radio stations).

- F. Out of more than 15,000 possible broadcast hours per month, there is just 105 hours of local news and public affairs programming across 21 analog radio and television broadcast streams. This is about seven-tenths of one percent (0.7%) of the total broadcast time.

Of this, approximately 70 hours/month is local news programs produced by commercial licensees which contain only at best 15% original news content (due to commercial advertisements, recycled content, and non-news content such as entertainment, weather, and video news releases). Thus, the actual number of original local news and public affairs produced per month is less than 50 hours/month, or about one-third of one percent (0.3%) of total broadcast time.

- G. Just two licenses (SUNY, Citadel) account for >90% of all local news + public affairs on radio. Just two licenses (Clear Channel, Television Station Group License Subsidiary) account for > 90% of all local news and public affairs programming on TV). These four licensees account for > 90% of all local news + public affairs in radio and television, with just two (Citadel, Television Station Group License Subsidiary) accounting for 64%.

- H. Time Warner Cable produces a public affairs show called "Community Corner", which it runs on the public access channel, but it seems to be irregularly produced.
- I. **Public Access Television** (also "PEG", or "Cable Access") can be a great source of localism when supported by the cable provider, when local production facilities are provided, as well as training classes so people can learn how to use the equipment, and existing regulations are enforced by the franchising authority and state regulators. None of these factors are present here, and the result is that public access channel capacity is under utilized, the channel is unwatchable in many homes due to signal ingress from new DTV transmitters.

### III. **Binghamton Market Summary**

Binghamton Metropolitan Statistical Area has a population of 252,320, with the Greater Binghamton region has 491,399. (Source: Broome County Department of Industrial Development Agency, "Community Profile"). The Binghamton radio market's rank in the Arbitrons is approximately 175.

<b>Table 1: Summary of Ownership of Primary Licenses</b> (Not including translators, low power TV, or non-operational facilities)					
Licensee name, location, licenses held	License Type	Radio FM	Radio AM	TV	DTV
<b><u>Clear Channel Communications Inc., San Antonio TX</u></b> WMRV-FM, WBBI-FM, WINR-AM, WMXW-FM, WENE-AM, WKGB-FM, WIVT-TV, WIVT-DT, WBGH-TV	Commercial	4	2	2	1
<b><u>Citadel Broadcasting Corp., Las Vegas NV</u></b> WYOS-AM, WHWK-FM, WAAL-FM, WNBK-AM, WWYL-FM	Commercial	3	2	-	-
<b><u>Stainless Broadcasting, LP. Okemos, MI</u></b> WICZ-TV, WICZ-DT	Commercial	-	-	1	1
<b><u>Television Station Group License Subsidiary, LLC, St. Louis, MO</u></b> ++ WBNG-TV, WBNG-DT	Commercial	-	-	1	1
<b><u>GM BROADCASTING, INC, Vestal NY</u></b> WLTB-FM	Commercial	1	-	-	-
<b><u>EQUINOX BROADCASTING CORPORATION, Binghamton NY</u></b> WCDW-FM	Commercial	1	-	-	-
<b>Totals (Commercial)</b>		<b>9</b>	<b>4</b>	<b>4</b>	<b>3</b>
<b><u>WSKG Public Telecommunications Council, Inc., Vestal, NY</u></b> WSKG-TV, WSKG-DT, WSKG-FM, WSQX-FM	Non-Commercial/Educational	2*	-	1	1
<b><u>State University of New York, Binghamton NY</u></b> WHRW-FM	Non-Commercial/Educational	1	-	-	-
<b>Totals (Non-commercial/Educational)</b>		<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>Totals overall</b>		<b>12</b>	<b>4</b>	<b>5</b>	<b>4</b>

++ Note: WBNG-TV was until very recently owned by "SJL Northeast", in Boston. The address of "Television Station Group License Subsidiary, LLC", 1215 Cole St, Saint Louis, MO 63106, is the same address as KDNL and River City Broadcasting Corp., both owned by Sinclair Broadcast Group. [This is also the address used by Miami Valley Broadcasting Corp.] WBNG GM Joseph McNamara stated via telephone, "There is no connection to Sinclair. The owner, SJL Northeast, just changed their name to avoid confusion with a different company, SJL Broadcasting in Erie, PA".

\* Note: WSKG, Inc. operates five FM radio transmitters and three FM translators, however these eight stations only provide two program streams. Three of the "transmitter" licenses effectively act as translators. Only the primary license for each program stream is included.

<b>Table 2: Ranked Totals - Radio+TV Raw Combined Local News and Public Affairs by Licensee</b>			
<b>Rank</b>	<b>Licensee</b>	<b>Total News+PA hours/wk</b>	<b>% of total</b>
<b>1</b>	Citadel	43.5	43.5/105= <b>41%</b>
<b>2</b>	Television Station Group License Subsidiary, LLC	24	24/105= <b>23%</b>
<b>3</b>	Clear Channel	15.5	15.5/105= <b>15%</b>
<b>4</b>	SUNY	15	15/105= <b>14%</b>
<b>5</b>	WSKG, Inc.	3	3/105= <b>3%</b>
<b>6</b>	Stainless Broadcasting, LP	3	3/105= <b>3%</b>
<b>6</b>	GM Broadcasting	1	1/105= <b>1%</b>
<b>7</b>	EQUINOX	0	<b>0%</b>

<b>Table 3: Ranked Totals - Radio+TV Weighted Raw Combined Local News and Public Affairs by Licensee</b>					
<b>Rank</b>	<b>Licensee</b>	<b>type</b>	<b>(Total News+PA hours/wk) / (number of primary licenses)</b>	<b>Weighted Score total</b>	<b>Weighted % of total</b>
<b>1</b>	Television Station Group License Subsidiary, LLC	com	24 / 1	24	24/54.6= <b>44%</b>
<b>2</b>	SUNY	non-com/edu	15 / 1	15	15/54.6= <b>27%</b>
<b>3</b>	Citadel	com	43.5 / 5	8.7	8.7/54.6= <b>16%</b>
<b>4</b>	Stainless Broadcasting, LP	com	3 / 1	3	3/54.6= <b>5%</b>
<b>5</b>	Clear Channel	com	15.5 / 8	1.9	1.9/54.6= <b>3%</b>
<b>6</b>	WSKG, Inc.	non-com/edu	3 / 3	1	1/54.6= <b>2%</b>
<b>6</b>	GM Broadcasting	com	1 / 1	1	1/54.6= <b>2%</b>
<b>7</b>	EQUINOX	com	0 / 1	0	<b>0%</b>

#### IV. Radio

##### A. Binghamton's commercial radio market nearly a duopoly between Clear Channel and Citadel

Binghamton has 13 commercial radio stations, 11 are owned by these two corporations.

Clear Channel (based in San Antonio, TX) owns 1216 stations nationwide and six radio stations in Binghamton, as well as two television stations. It is number one in ownership and revenue (\$3.5B).

Citadel (based in Las Vegas, NV) owns 212 radio stations in 44 markets nationwide, owns five in Binghamton, and is the sixth-largest radio broadcaster in the nation by revenue. (Source: John Dunbar and Robert Morlino, August 19, 2004, Center for Public Integrity, <http://www.publicintegrity.org/telecom/analysis/CompanyProfile.aspx?H OID=8040>)

The standard metric used to determine if a monopoly exists is the Herfindahl-Hirschman Index. Based on publicly available information (Source: <http://www.fcc.gov/Speeches/Tristani/Statements/2001/stgt118.html>), these two corporations hold 91.2% of the market share of the Binghamton Radio Market. The HHI is calculated by summing the square of the market share of each entity.

Assuming that the shares owned by Clear Channel and Citadel are equal, and that the remaining two owners share equal portions of what's remaining, this produces an *minimum* estimated HHI as follows:

$$\begin{aligned} (ms_1)^2 + (ms_2)^2 + (ms_3)^2 \dots (ms_n)^2 &= \text{HHI} \\ (45.6^2) + (45.6^2) + (4.4^2) + (4.4^2) &= 4197 \end{aligned}$$

Notes: An HHI score of 10000 is perfect monopoly and 5000 is duopoly where each entity shares 50% of the market. Note that since the HHI is on a logarithmic scale, an HHI of 4197 is approximately equal to 5000. The estimation method used produces a *minimum* HHI. If any broadcaster holds a greater portion of the market share then estimated, the resulting HHI would increase.

Monopoly ownership by distant profit-seeking corporate owners is a major factor which adversely affects localism, as will be addressed below.

**B. All Binghamton radio stations (except WHRW) are 100% automated at night; many have some automation during the day.**

These automations either air pre-selected playlists of music, or obtain programming from satellite-based services. This kind of static programming may be good for the bottom-line of the station (as these machines and programming services are cheaper than paying for a human DJ or engineer), but cannot be considered "local" by any stretch of the imagination or to serve the public interest. Something great is lost when human radio operators are removed; the ability to call the station and talk with a DJ, request a song and have it played, to ask a question about the music or a public service announcement, etc.. And with such automations, emergency notifications are 100% dependent on the proper functioning of the EAS system, which has had some spectacular failures (like Minot, ND).

In many occupations where public safety is a risk, automations are considered taboo. Buses, trains, airplanes, air traffic control, etc. all have human operators who exercise their human judgment due to risks. Similarly, automated radio stations, even with systems such as EAS, should not be left to auto-pilot due to public safety considerations. In Jan 2005, NY State is moving to a new satellite based EAS system. It's efficacy is unknown, however, no machine can make complex decisions affecting public safety the way a living person can.

**C. SUNY Binghamton's station WHRW beacon of light.**

Probably the best example here of broadcast localism in any medium is the SUNY Binghamton (aka, "Binghamton University") station WHRW. During the normal semester, there are *three hours per day* of locally produced public affairs programming (almost 9% of the broadcast day), including several shows produced for and about minority student populations. The music is free-format and very diverse.

**D. For commercial radio licensees, locally produced public affairs programming is virtually non-existent.**

Local (non-news) public affairs programs make up less than seven tenths of one percent (0.7%), based on just four programs: "Talk with Tony" on WNBC (12.5 hours/week), "Encounter" (0.5 hour/week, repeated on WBNG-TV) "Community Focus" (0.5 hours/week, repeated), and "Southern Tier Closeup" (0.25 hours/week). One GM/Co-owner (Steven J. Gilinsky/WLTB) interviewed expressed concern over the cost of slander



liability, but said he is considering adding a public affairs show in the near future (but not a live program due to these concerns).

E. **State-controlled "Public Broadcasting" outlet fairs very poorly on localism metrics.**

WSKG, Inc.'s two radio streams are automated most of the day. Regularly scheduled locally produced public affairs programming is just 2 hours per month on WSKG-FM, nothing on WSQX-FM (and nothing on WSKG-TV). This is approximately 0.13% (slightly more than one tenth of one percent) of the total programming including both radio program streams. (If WSKG-TV is included, this drops to .092%, or slightly less than one tenth of one percent)

There is no local news, except brief reports supplied a news service (this is called "rip-and-read" in the industry). Requests for air time from experienced local independent radio producers are ignored or denied. While the ownership is a local board of trustees, they are generally unresponsive to requests from the community for locally produced programming. The stations are more than 30% music which is very narrowly defined "classical" (non-experimental orchestral music from 18th-19th century European composers), or similarly narrowly defined "jazz" (non-experimental "elevator jazz", which has had all passion excluded upon recommendation of focus groups). Both lack public mandate, do not tend to fulfill an educational mission any more so than the countless other styles and genres of music which are excluded, and the public affairs programming supplied by national services like NPR are bland, unchallenging, and centrist, *at best*. At worst NPR has been criticized for it's strong conservative biases (pro-business, pro-military, anti-environmental, anti-labor), as documented by Fairness and Accuracy in Reporting, and other scholars and watchdog groups.

F. **Summary of Locally-Produced News and Public Affairs Programming**

The following table is a summary of locally-produced news and public affairs programming for commercial radio licensees:

Table 4: Summary of Locally-Produced News and Public Affairs Programming for Commercial Radio Licensees					
Licensee	Callsign	Local news hours produced per week	Local News % of broadcast hours	Local Public Affairs hours produced per week	Local Public Affairs % of broadcast hours
<b>Clear Channel</b>  Data supplied by Joanne Aloï, GM and Doug Mosher	WKGB-FM	0	0/168=0%	0.5	0.5/168=0.297 %
	WMRV-FM	0	0/168= 0%	0.5	0.5/168=0.297 %
	WBBi-FM	0	0/168=0%	0.5	0.5/168=0.297 %
	WINR-AM	0	0/168= 0%	0.5	0.5/168=0.297 %
	WMXW-FM	0	0/168= 0%	0.5	0.5/168=0.297 %
	WENE-AM	0	0/168= 0%	0.5	0.5/168=0.297 %
<b>Clear Channel Totals</b>	Category Totals	0	0/1008 = 0%	0.5 (see Note 1)	0.5/1008=0.049%
	Combined News+PA	0.5	0.5/1008= 0.049%	--	
<b>Citadel</b>  Data supplied by Roger Neel, Larry Hodge, and Mary Beth Walsh	WYOS-AM no local shows, all syndicated	1.5 (note 4)	1.5/168= 0.9%	0.25 (see Note 2)	0.25/168= 0.148% (see Note 2)
	WHWK-FM (Note: EAS LP1 station)	0.85 (Note 5)	0.85/168=0.51%	0	0/168=0%
	WAAL-FM	0.85 (note 6)	0.85/168= 0.51%	0.25 (see Note 2)	0.25/168=0.148% (see Note 2)
	WBNF-AM syndicated programming	26.5 (See Note 3,7)	26.5/168=15.7% (See Note 3)	13.0 (See Note 3,8)	13/168=7.74% (See Note 3)
	WWYL-FM	0	0%	0.25 (see Note 2)	0.25/168=0.148% (see Note 2)
<b>Citadel Totals</b>	Category Totals	29.7	29.7/790= 3.8%	13.25	13.25/790= 1.7%
	Combined News+PA	43.5	43.5/790= 5.5%	--	
<b>Independent</b>  WLTB data supplied by Steve Gilinsky, GM	WLTB-FM (GM BROADCASTING)	1 (0.2*5)	1/168=0.6%	0	0%
	WCDW-FM (EQUINOX)	0	0/168= 0%	0	0%
<b>Commercial Licensee Totals</b>	Category Totals	30.7	30.7/2134=1.4%	13.75	13.75/2134= 0.64%
	Combined News+PA	44.5	44.5/2134= 2%	--	

Note 1: Clear Channel 30 min PA show "Community Focus" runs on all six stations once/wk. Totals for licensee only include this once.

Note 2: Citadel's 15 min. public affairs show "Southern Tier Closeup" airs on three stations WWYL, WYOS, and WAAL once/wk. Totals for licensee only include this once.

Note 3: WNBC's "Talk with Tony", "First News" with Roger Neel, and "Binghamton Today" are all a mix of news and public affairs. For the purpose of this report, "Talk with Tony" is considered a PA show and "First News" and "Binghamton Today" are considered news shows.

Note 4:  $(2.5\text{min} * 6 \text{ times/day} * 5 \text{ days} = 75 \text{ min/wk} = 1.5 \text{ hours/wk}$ , top of hour 6am-8am 2.5 min + 3:30-4:30-5:30 M-F)

Note 5:  $(2.5\text{min}*4*5 = 50 \text{ min. morning 6am-9am top M-F})$

Note 6:  $(2.5\text{min}*4*5 = 50 \text{ min. morning 6am-9am top M-F})$

Note 7:  $(3.5 * 5 = 17.5 \text{ [First News]} + 1.0 * 5 = 5.0 \text{ [Binghamton Today]}, + 0.5 * 5 = 2.5 \text{ [5 min local top * 6 hrs. not within these shows]}, + 0.3 \text{ [3 min. avg * 6 on Sat morn]} + 0.5 \text{ [12pm on Sat]} + 0.67 \text{ [4 min * 10 on Sunday]} = \text{TOTAL}=26.5)$

Note 8:  $(2.5*5=12.5 \text{ [Talk w/Tony]} + 0.5 \text{ [Encounter]})$

Table 5: Summary of Locally-Produced News and Public Affairs Programming Non-commercial/Educational Radio Licensees					
Licensee	Callsign	Local news hours produced per week	Local News % of broadcast hours	Local Public Affairs hours produced per week	Local Public Affairs % of broadcast hours
<b>WSKG, Inc.</b> (see note 1)	WSKG-FM	2.5 (0.5*5) (see note 2)	2.5/168=1.5%	0.5/168	1.5%
	WSQX-FM	0	0	0	0
<b>WSKG, Inc. Totals</b>	<b>Category Totals</b>	<b>2.5</b>	<b>2.5/336= 0.74%</b>	<b>0.5/336</b>	<b>0.74%</b>
	<b>Combined News+PA</b>	<b>3.0</b>	<b>3.0/336= 0.9%</b>	--	
<b>SUNY Binghamton</b> (see notes 1, 3)	WHRW-FM	2.5	2.5/168=1.5%	12.5/168	7.4%
<b>SUNY Binghamton Totals</b>	<b>Combined News+PA</b>	<b>15</b>	<b>15/168=8.9%</b>	--	
<b>Non-Commercial Educational Licensee Totals</b>	<b>Category Totals</b>	<b>5.0</b>	<b>5.0/504=1%</b>	<b>13.0/504</b>	<b>2.6%</b>
	<b>Combined News+PA</b>	<b>18</b>	<b>18/504=3.6%</b>	--	

Note 1: WHRW and WSKG are both controlled by the NY State Government. WHRW's license is held by the State University of New York. WSKG claims on their web page that they are "a private non-profit corporation", however on their broadcast applications to the

FCC, they state, "THE GOVERNING BOARD IS UNDER THE CONTROL OF THE NEW YORK STATE DEPARTMENT OF EDUCATION, FOR AND ON BEHALF OF THE BOARD OF REGENTS."

Note 2: WSKG eliminated their local news department in the 1980s. Local news counted here is wire reports read on the air.

Note 3: WHRW totals only apply while school is in session. Schedule is irregular at other times.

Table 6: Summary of Locally-Produced News and Public Affairs Programming Combined Totals for Radio					
		Local news hours produced per week	Local News % of broadcast hours	Local Public Affairs hours produced per week	Local Public Affairs % of broadcast hours
Overall Totals Combined Commercial and Non- Commercial Educational	Category Totals	62.5	62.5/2638= 2.4%	26.75	26.75/2638= 1%
	Combined News+PA	89.25	89.25/2638= 3.4%	--	

Table 7: Ranked Totals - Radio Local News and Public Affairs							
Rank	Callsign/Licensee	Local News Hours/wk	% of total	Rank	Callsign/Licensee	PA Hours/wk	% of total
1	WNBF-AM / Citadel	26.5	74%	1	WNBF-AM / Citadel	13.0	39%
2	WSKG-FM / WSKG, Inc.	2.5	7%	2	WHRW-FM / SUNY	12.5	37%
2	WHRW-FM / SUNY	2.5	7%	3	WSKG-FM / WSKG, Inc.	0.5	1.5%
3	WYOS-AM / Citadel	1.5	4%	4	WYOS-AM / Citadel	0.083 (*)	0.3%
4	WLTB-FM / GM B'CASTING	1.0	3%	4	WAAL-FM / Citadel	0.083 (*)	0.3%
5	WHWK-FM / Citadel	0.85	2%	4	WINR-AM / Clear Channel	0.083 (+)	0.3%
5	WAAL-FM / Citadel	0.85	2%	4	WWYL-FM / Citadel	0.083 (*)	0.3%
6	WINR-AM / Clear Channel	0	0%	4	WMXW-FM / Clear Channel	0.083 (+)	0.3%
6	WWYL-FM / Citadel	0	0%	4	WMRV-FM / Clear Channel	0.083 (+)	0.3%
6	WMXW-FM / Clear Channel	0	0%	4	WBBI-FM / Clear Channel	0.083 (+)	0.3%
6	WCDW-FM / EQUINOX	0	0%	4	WKGB-FM / Clear Channel	0.083 (+)	0.3%
6	WMRV-FM / Clear Channel	0	0%	4	WENE-AM / Clear Channel	0.083 (+)	0.3%
6	WSQX-FM / WSKG, Inc.	0	0%	5	WSQX-FM / WSKG, Inc.	0	0%
6	WBBI-FM / Clear Channel	0	0%	5	WCDW-FM / EQUINOX	0	0%
6	WKGB-FM / Clear Channel	0	0%	5	WLTB-FM / GM B'CASTING	0	0%
6	WENE-AM / Clear Channel	0	0%	5	WHWK-FM / Citadel	0	0%

Notes:

(+) Clear Channel's 30 min. "Community Focus" is played on all 6 stations. Totals reflect 0.5/6

(\*) Citadel's 15 min. "Southern Tier Closeup" is played on 3 stations. Totals reflect 0.25/3

<b>Table 8: Ranked Totals - Radio Raw Combined Local News and Public Affairs by Licensee</b>			
<b>Rank</b>	<b>Licensee</b>	<b>Total News+PA hours/wk</b>	<b>% of total</b>
<b>1</b>	Citadel	43.5	69%
<b>2</b>	SUNY	15	24%
<b>3</b>	WSKG, Inc.	3	5%
<b>4</b>	GM Broadcasting	1	2%
<b>5</b>	Clear Channel	0.5	0.8%
<b>6</b>	EQUINOX	0	0%

<b>Table 9: Ranked Totals - Radio Weighted Combined Local News and Public Affairs by Licensee</b>				
<b>Rank</b>	<b>Licensee</b>	<b>(Total News+PA hours/wk) / (number of primary radio licenses)</b>	<b>Weighted Score Total</b>	<b>Weighted % of total</b>
<b>1</b>	SUNY	15/1	15	57%
<b>2</b>	Citadel	43.5/5	8.7	33%
<b>3</b>	WSKG, Inc.	3/2	1.5	6%
<b>4</b>	GM Broadcasting	1/1	1.0	4%
<b>5</b>	Clear Channel	0.5/6	0.1	0.4%
<b>6</b>	EQUINOX	0/1	0.0	0%

## V. Television

- A. Three corporations own four broadcast channels. A fifth channel is a state-controlled PBS affiliate.
- B. There is an order of magnitude of difference between the station producing the most local news (23.5 hours/wk) and the least (3.0 hours/wk).
- C. As noted elsewhere in this report, what passes for a local news broadcast is generally about 30% very short features (30-60 sec) of highly sensational stories (car crashes, fires, violent crime, etc.), and the rest

being commercials, video news releases, entertainment, sports, and weather. Additionally, many stations repeat these same segments throughout the day, so the actual percentage of original news hours may be only 5-15% of the numbers claimed.

- D. There is virtually no locally produced public affairs programming, just 30 min. in 840 broadcast hours / week. This is just 0.06% (six one-hundredths of one percent). The local PBS affiliate WSKG-TV produces no regularly scheduled local news or public affairs broadcasting.
- E. One local newscast (WIVT @ 11pm M-F) boasts "11 Non-Stop Minutes of News". However, this can only be described as fraudulent. When observed approximately 8 times at random intervals in December 2004, the newscast always began at :02 past the hour, and went to a one-minute "weather tease" between :05 and :08, followed by a one-minute "sports tease". The first commercial always began between :07 and :10. Thus, only 5-8 min. of news was actually presented, *even if the weather and sports is included.*

**Table 10: Summary and Ranking of Locally-Produced News and Regularly Scheduled Public Affairs Programming for Analog Television**

<b>Rank</b>	<b>Callsign - Broadcast Channel Owner</b>	<b>Network Affiliation</b>	<b>Local News (hours/wk)</b>	<b>Local News % of broadcast day</b>	<b>% of total local news hours produced</b>	<b>Local Public Affairs (hours/wk)</b>	<b>Local P/A % of broadcast day</b>	<b>% of Total P/A hours produced</b>
<b>1</b>	<b>WBNG-12</b> Television Station Group License Subsidiary, LLC	CBS	23.5	23.5/168= <b>14%</b>	23.5/41.5= <b>57%</b>	0.5	0.3%	100%
<b>2</b>	<b>WIVT-34</b> Clear Channel	ABC	15 (5:30-7am daybreak? 5pm,6pm,11pm 30min M-F)	15/168= <b>9%</b>	15/41.5= <b>36%</b>	0	0%	0%
<b>3</b>	<b>WBGH-20</b> Clear Channel	NBC	7.5 ++ (6pm, 11pm 30 min. M-F)	7.5/168= <b>4.5%</b>	See note ++	0	0%	0%
<b>4</b>	<b>WICZ-40</b> Stainless Broadcasting, LP	Fox	3.0	3.0/168= <b>1.8%</b>	3.0/41.5= <b>7%</b>	0	0%	0%
<b>5</b>	<b>WSKG-46</b> * WSKG, Inc	PBS	0	0/168= <b>0%</b>	<b>0%</b>	0	0%	0%
<b>Totals</b>	<b>Category</b>		<b>41.5</b>	<b>41.5/840= 4.9%</b>	<b>--</b>	<b>0.5</b>	<b>0.5/840= 0.06%</b>	<b>--</b>
	<b>Combined News + Public Affairs</b>		<b>42</b>	<b>42/840= 5%</b>	<b>--</b>			

++ Note: WBGH's news is produced by WIVT, thus is not included in the totals for original content.

\* Note: All local television broadcasters are commercial licensees, except for WSKG, Inc., which is a non-commercial, educational licensee.

## VI. Cable

- A. **Ownership is a Perfect Monopoly** of Time Warner Cable, which has an HHI = 10000 (one vendor with 100% of cable market share), although industry reports that cable companies are facing competition from Direct



Broadcast Satellite (DBS) services such as Direct-TV and Dish Network. However, DBS services are not subject to must-carry rules for retransmission of local broadcast signals, nor cable-only Public, Education, or Government (PEG) channels.

Monopolies are generally considered unhealthy due to lack of competition, but can serve the public interest when subject to strong government regulation, especially in the areas of rate regulation and public service obligations. However, in the Binghamton cable market, there are long standing violations -- nearly 30 years -- of existing public service obligations, and virtually no community involvement in rate regulation, due to a prevailing air of federal deregulation and federal preemption of local control.

- B. Over the last 10 years, cable rates have increased 10x the rate of inflation.
- C. New federally-mandated digital television transmitters are causing interference due to signal ingress into the existing cable plant. Time Warner Cable has rewired many homes to correct this problem, but the problem still exists in many more. Rather than fixing these problems, Time Warner Cable has placed the public service (Public, Education, and Government, or "PEG") channel capacity to the channels with the greatest ingress problems, while moving the signal for one must-carry local broadcaster to a channel without interference.
- D. Long-standing violations of state-required public service obligations are ignored by NY Public Service Commission.
- E. Local Origination produced by the cable provider is ~7 hours per month ("Community Corner", Binghamton City Council meetings)
- F. Public Access channel capacity exists, but facilities and equipment necessary to produce local programs are not provided, causing the channel capacity to be under utilized. The cable provider then sells the unused capacity to commercial users under the "fallow time rule" (9 NYCRR §595.4(c)(12)). This rule creates a conflict of interest when public access channel is administered by the cable provider, as there is a huge financial incentive for the cable provider to cause the public access channel to be under-utilized (which saves them money in operational costs), as they can then sell the unused time to leased-access customers (a double windfall).

## **VII. Public Broadcasting**

NY/PA Media Action notes that all broadcasters have public service obligations, but due to the non-commercial nature and public financing, special obligations are placed on so-called "Public Broadcasting" outlets to serve the communities in which they serve with programming not available in other fora, especially in the

areas of localism, and diversity of both music and public affairs programming.

There are many serious problems NY/PA Media Action has observed with WSKG, Inc., in the broad categories of localism and diversity of programming, and the openness and public accountability of its management and governing body.

While the station has been receptive to a small degree to public demands for programming changes, there remains many problems with station management and governance at this time. Here is a partial list:

- There is presently no possibility for independent producers to gain access to the public airwaves WSKG, Inc. stewards, and every example of such have been turned away. (There are perhaps a half dozen of cases of which we are aware, but the exact number is known only by station management. It could easily be double or triple this number).
- Activists have been removed from the Community Advisory Board, in proceedings which violate a number of CPB rules,
- The management refuses to comply with NY State and CPB Open Meetings rules,
- The management refuses to comply with Freedom of Information requests, despite that it is a public benefit corporation controlled by the government,
- The governing board refuses to supply to the public financial statements and other documents distributed at meetings of the Board of Trustees, in violation of CPB Open Accounting requirements, and
- Recently when a small group of people came to the station to deliver a petition, the station management called the police and ordered these people off the premises.

NY/PA Media Action has discovered a 1998 Petition to Deny filed by a group of citizens from Ithaca NY, who raised many of these same complaints: more localism, diversity, accountability, and openness. While the station was cautioned by the Commission and the license eventually granted, it appears at present little has changed.

NY/PA Media Action is now attempting to negotiate a Citizen's Agreement with the station to address these concerns, and if unsuccessful, additional remedies may be sought by the Commission and other regulatory agencies.

## **VIII. Localism at its Best -- Special Mention**

- A. WIVT-TV ("News Channel 34") Pre-empts three hours of network programming to cover Endicott spill hearings, July 2003

- B. WSKG, Inc. responds to listener requests by airing Democracy Now! March 2003, improves diversity of public affairs programming on WSQX, July 2003.
- C. WSKG, Inc. has exceptional coverage of local political debates, Sept-Oct 2004.
- D. WICZ-TV ("Fox 40") for covering local independent media events and issues, Fall 2004.
- E. SUNY Binghamton's WHRW-FM, for exceptional diversity of music and public affairs programming, and by allowing access to community members (in addition to students and faculty).
- F. Citadel, for the greatest number of locally produced news and public affairs program hours in the commercial radio sector.
- G. WBNG-TV, for the greatest number of locally produced news and public affairs for television, considering both the commercial and non-commercial television.

#### **IX. Reply Comments on filings by local citizens**

I have examined 54 comments filed on FCC Docket No. 04-233 (Localism NOI) from citizens of the Greater Binghamton area.

- **49** were nearly identical, about Sinclair Broadcasting's airing a partisan political documentary prior to the recent presidential election
- **4** were similar, a form letter regarding a general lack of public affairs broadcasting
- **1** was from the GM of WBNG-TV

#### **X. Reply Comments on WBNG-TV filings**

The following are reply comments on Joseph McNamara, GM of WBNG's filings. WBNG was the only local broadcaster to make such.

- A. WBNG-TV claims to make "more than 24 1/2 hours of local newscasts each week". However, according to the schedule published on their website, the actual amount is only 23 1/2 hours per week:

<b>Table 11: Summary of WBNG Weekly News Hours</b>			
<b>Days</b>	<b>Time</b>	<b>Duration * # days</b>	<b>total hrs/wk</b>
M-F	5:30am - 7am	1.5 hrs * 5	<b>7.5</b>
M-F	5:00pm - 6:00pm	1.0 hrs * 5	<b>5.0</b>
M-F,SS	6:00pm - 6:30pm	1.5 hrs * 7	<b>7.5</b>
M-F,SS	11:00pm - 11:30pm	0.5 hrs * 7	<b>3.5</b>
<b>Totals</b>			<b>23.5</b>

(I spoke with Joseph McNamara on the telephone briefly, however he did not respond to a query for further information.)

B. Additionally, this number can be misleading, as each newscast contains only 8-11 minutes of news (sometimes even segments from national broadcast networks), with the remainder being commercial advertisements, weather, sports, entertainment, and video news releases. Also, features are often reused during multiple newscasts per day. A reasonable estimate for the actual number of hours of original news produced per week is less than 4 hours/week.

C. The following items are included under the section "Local Public Affairs"

1. "Steps to a Healthier NY", "Does it Work?", "Crimestoppers", "Recall Alert", "Focus on Our Schools", "Jefferson Awards", "Local Business Report", "Academic All-Star", "Educator of the Week", and "Around the Tiers": short segments (2-4 min) already included in news totals.
2. 30 sec. PSAs. (As stated elsewhere, PSAs are of such short duration, that they generally were not included in this report)
3. "Glen Wood Financial", already included in news totals. Also, this kind of segment is normally purchased or exchanged, i.e., "Glen Wood Financial" pays something in exchange for being featured on the report. It is basically advertisement disguised as public affairs.
4. "Parenting", 1:30 min. segment already included in news totals. This is actually titled "Parenting Magazine" which is a Video

News Release (VNR). Mr. McNamara tells me that WBNG purchases these segments, however VNRs are often supplied free of charge, as they usually are promotion for a commercial product or service, which pays for the production and distribution fees.

5. "MedBreak", a video news release, already included in news totals.
6. "AllWays Healthy", a VNR

D. WBNG has been observed to use three video news releases in a single broadcast, especially frequent in the 5pm broadcast. One regular feature ("Entertainment Tonight") should be more properly called an advertisement for an upcoming show.

E. WBNG should be commended for some things:

1. While not noted in their comments, WBNG does produce a 30 min. public affairs show each week called "Encounter", **which is the only locally produced non-news public affairs show on any local broadcast television station.**
2. We note here that WBNG does produce 50% more hours of local news programs than it's nearest competitor.

F. WBNG in their comments say they offer "2 minutes free airtime" to local political candidates during newscasts. While this is to be commended, much more in-depth coverage of political campaigns is needed by all broadcasters.

G. NOTE: While the use of VNRs during news programs is repugnant, we do not single out WBNG, as all local television broadcasters use them, often, using local captions and voice-overs to make them seem like local productions.

## **XI. Reply Comments on Prometheus Radio Project and REC Networks filings on LPFM**

LPFM seems like a very promising technology towards fostering localism in broadcasting, however, since LPFM is not our area of expertise, we generally affirm the positions of the Prometheus Radio Project, and REC Networks, and call the Commission's attention to these excellent and thorough comments.

**NY/PA Media Action** requests that regardless of potential benefits LPFM offers in the future, that the Commission stand firm in the requirements for broadcast licensees to benefit the communities in which they serve, and to otherwise perform in the public interest. It is the position of **NY/PA Media Action** that it is

imperative that requirements for program diversity and locally originated public affairs broadcasting should be placed upon all broadcast licensees, and that these are a vital and urgent community service if the citizens of the United States are to retain a democratic form of government.

## **XII. Factors Affecting Localism and the Public Interest**

These comments are presented in brief, as each comment could take volumes to explain fully. I will provide additional information in support of these assertions if requested by the Commission.

### **A. Ownership issues**

1. **Distant owners not concerned about the community of operation, and they function to remove local wealth to distant cities.** -- Need to have local ownership of media outlets
2. **Media corporations concerned only with profit consider news and public affairs a "cost" to be minimized.** -- need to have news and public affairs required as a condition of license renewals
3. **Small number owners (horizontal integration, monopoly, duopoly, etc.) with similar interests can fix advertising prices, and cause other ills.** -- Need to have stronger ownership limits imposed.
4. **Vertical integration in media production and distribution creates barriers to entry to independent producers, and narrows the scope of information presented to that which benefits these corporations and their stockholders.** -- The interests of these elites are not necessarily shared by the citizens of the local communities in which they serve, and are quite likely in opposition to local interests.

### **B. Regulation vs. Market control**

1. **Quest for high ratings and thus higher advertising revenue tends to exclude progressive voices, news, public affairs.** -- Any voice which speaks against power, or against the corporate agenda is marginalized. Need more public service obligations imposed, perhaps a certain portion of the broadcast day reserved as "common carriage" for community producers who maintain editorial control
2. **Localism thrives in commercial markets through regulation, not competition.** -- The result of the deregulation of the media over the last 20 years has been the death of localism, as this report

clearly shows. Much more regulation in the public interest is necessary, as when left to market forces, localism suffers terribly.

3. **In unregulated marketplace of media companies, danger exists of excessive capital accumulation, adverse to the public interest** -- Media corporations are unique if one watches how the money flows. While an auto manufacturer must pay costs to suppliers, the operational costs of television and radio broadcasters is relatively low. Another way of stating this is that in the media business, margins are rather high. As capital accumulates in these media operations, so does their power. Media operations have a unique power to affect public opinion, consumer habits, and elections. This is another reason for the need for strong public-service obligations as a source of negative-feedback, which as an engineer will tell us, is necessary for stabilization of any system.
4. **Need strong public service obligations and anti-trust laws specifically for media companies, due to their unique ability to influence the public mind**
5. **Need ban on advertising during news, public affairs, and children's broadcasting** -- the need for this has been articulated by David Korten (When Corporations Rule the World), and by Robert McChesney (in various essays).
6. **Need return of Fairness Doctrine**
7. **Need ban on political advertising, and compel local broadcasters to provide in-depth coverage of news as a public-service obligation**

#### C. FCC and Communications Policy issues

1. **FCC license auction process creates barriers of entry to community broadcasters, creates a market of Hyper-Commercialism** -- Recent auctions for new frequency allocations have often gone into the millions of dollars. Entry bid is usually \$50,000. One new frequency in rural Delhi, NY (Auction #37) sold for \$400,000 to an out-of-state broadcast group. This effectively excludes small community broadcasters, and only invites well-funded corporate broadcast conglomerates seeking only to make a return on their investment, i.e., remove profits from this already economically depressed area.
2. **Massive FCC fines and slander liability chills most important local speech: public affairs.** Two local GMs (Gary Reinbolt, WSKG; Steve Gilinsky, WLTV) expressed that public affairs broadcasting, especially when a) live, or b) when hosted by

community producers who maintain editorial control, created a risk of either FCC indecency fines or slander lawsuits.

We as citizens in a democratic society should perform a cost-benefit analysis between a) the harm caused by someone being exposed to indecency on the air or of individual acts defamation, vs. b) the costs of large scale censorship of local public affairs programming. This is the present scenario. Threats of massive FCC fines (to as much as \$275,000 per incident up to \$3,000,000/day) and slander lawsuits are perhaps some of the largest contributing factors towards the present death of local public affairs broadcasting,

3. **Digital-TV mandate lacks public service obligations.**
4. **LPFM offers hope.** See filings by **Prometheus Radio Project** and **REC Networks**.
5. **Need national policy on Public Access Television.**

Public Access Television provides a unique and vital outlet for community self-expression as found in no other forum. However, at present, the state of Public Access TV is a mess nationally. In cities all across the country, stations are getting their funding cut while cable providers are enjoying windfall profits from new services (high speed internet, digital television, Cable VoIP), due to arguments over franchise fees. Cable providers are cutting back on the number of PEG channels while they are simultaneously adding massive amounts of new digital channel capacity. Federal pre-emption of local policy (especially to enforce provisions of the 1996 Telecom Act) is increasingly nullifying long-standing public service obligations upon cable providers. State regulators refuse to enforce existing regulations.

During a time when public access television was mandated by federal policy (i.e., FCC's 1972 Cable Television Report and Order, 36 F.C.C.2d 141, 1972), the medium flourished. However, it has been in decline ever since the Midwest Video case of 1979 to the present.

Now more than every, we need a national policy on Public Access Television. For some possible solutions, see: "NEAR-TERM REFORM FOR PUBLIC SERVICE IN CABLE TELEVISION", by Henry Geller, Annenberg Senior Fellow, December 1994.

6. **DTV causing signal ingress into cable plants and interference.** - Provisions of the 1996 Telecom act mandated local broadcasters



to establish new digital transmitters on frequencies formerly allocated to analog broadcast television. The result in the Binghamton area, and other localities as well, is ingress into the existing cable plant and resulting signal interference. This is a serious technical problem which should be addressed by the Commission.

While Time Warner Cable locally claims to have rewired 5,000 homes, which normally corrects the problem, ingress still exists in as many as 40,000 homes. To "correct" the problem with WIVT-DTs ingress causing interference on the cable channel carrying WIVT-TV (owned by Clear Channel), Time Warner Cable moved the WIVT-TV signal to a slot not prone to interference, and moved the Public Access channel to the channel with ingress. This made "Clear Channel get clearer, while Public Access gets snowed".

7. **FCC should act to involve local communities in license renewal process.**

### **XIII. Conclusion**

1. **Strong public service obligations must be placed on broadcasters and cable providers**
2. **Public service obligations must be updated to embrace evolving technologies**
3. **Special public service obligations must be placed upon "Public Broadcasters"**

Respectfully Submitted,

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